IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.8159 OF 2000
IN
SECOND APPEAL ST.NO.18038 OF 2000

Jagannaath Gopala Pharate ...Applicant

vs.

Ankush Udhav Darekar & Ors. ...Respondents

Mr.P.V.Thorat for the Applicant
Mr.Jaydeep Deo i/b Ms Suhasini Mutalik for Respondent Nos.1 to 4.

CORAM: A.S.OKA,J.
DATE : OCTOBER 30, 2007.

P.C.:

1. Office noting shows that the Application stands dismissed as against the Respondent No.5. I have heard the Advocate for the Applicant and Advocate for the Respondent Nos.1 to 4. The Application is contested by the Advocate for the Respondent Nos.1 to 4 by pointing out that the reason set out in the Application is not correct. He submitted that as the reason itself is not correct, no sufficient cause was made out for condonation of delay. He submitted that the Advocate for the Applicant named in the Application did not appear for the present Applicant in the trial court.

2. I have considered the submissions. The Judgment of the Appellate Court shows that Mr.Jha was represented all the Respondents. In the body of the Judgment, it is stated that the present Applicant was represented by Shri Borkar,

Advocate. The Judgment notes that the said Advocate filed a pursis informing the Court that the Applicant has not given him any instructions. However, there is nothing on record to show that the said Advocate applied for withdrawal of the Vakalatnama by following a due procedure prescribed by the Rules framed under section 34 of the Advocates Act,1961.

3. The delay is of 210 days. Considering the facts and circumstances of the case, delay deserves to be condoned subject to the Applicant paying costs to the Respondent Nos.1 to 4.

4. Accordingly, rule is made absolute in terms of prayer clause (a) subject to the Applicant paying costs of Rs.1500/- to the Respondent Nos.1 to 4 within a period of six weeks from today. Payment of costs will be a condition precedent.

JUDGE